

PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

To: NOEL C. GILLESPIE BAKER & MCKENZIE LLP 2001 ROSS AVENUE, SUITE 3300 DALLAS, TX 75201	<div style="border: 1px solid black; padding: 5px; margin: 0 auto; width: 80%;"> RECEIVED INTELLECTUAL PROPERTY JUN 06 2006 </div> <div style="border: 1px solid black; padding: 2px; margin-top: 5px; width: 80%;"> BAKER & MCKENZIE DALLAS </div>
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PCT

NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL SEARCH REPORT AND
THE WRITTEN OPINION OF THE INTERNATIONAL
SEARCHING AUTHORITY, OR THE DECLARATION

(PCT Rule 44.1)

Applicant's or agent's file reference 67175523.001115	Date of mailing (day/month/year) 02 JUN 2006
International application No. PCT/US06/02390	International filing date (day/month/year) 23 January 2006 (23.01.2006)
Applicant MAX OUT GOLF, LLC	

1. ☒ The applicant is hereby notified that the international search report and the written opinion of the International Searching Authority have been established and are transmitted herewith.

Filing of amendments and statement under Article 19:

The applicant is entitled, if he so wishes, to amend the claims of the international application (see Rule 46):

When? The time limit for filing such amendments is normally two months from the date of transmittal of the international search report.

Where? Directly to the International Bureau of WIPO, 34 chemin des Colombettes
1211 Geneva 20, Switzerland, Facsimile No.: (41-22) 338.82.70.

For more detailed instructions, see the notes on the accompanying sheet.

2. ☐ The applicant is hereby notified that no international search report will be established and that the declaration under Article 17(2)(a) to that effect and the written opinion of the International Searching Authority are transmitted herewith.
3. ☐ With regard to the protest against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:
- ☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.
 - ☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

4. Reminders

Shortly after the expiration of 18 months from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90bis.1 and 90bis.3, respectively, before the completion of the technical preparations for international publication.

The applicant may submit comments on an informal basis on the written opinion of the International Searching Authority to the International Bureau. The International Bureau will send a copy of such comments to all designated Offices unless an international preliminary examination report has been or is to be established. These comments would also be made available to the public but not before the expiration of 30 months from the priority date.

Within 19 months from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase until 30 months from the priority date (in some Offices even later); otherwise, the applicant must, within 20 months from the priority date, perform the prescribed acts for entry into the national phase before those designated Offices.

In respect of other designated Offices, the time limit of 30 months (or later) will apply even if no demand is filed within 19 months.

See the Annex to Form PCT/IB/301 and, for details about the applicable time limits, Office by Office, see the *PCT Applicant's Guide*, Volume II, National Chapters and the WIPO Internet site.

Name and mailing address of the ISA/US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1490 Alexandria, Virginia 22313-1450 Facsimile No. (571) 273-3201	Authorized Officer <div style="text-align: center;"> Stephen L. Blair </div> Telephone No. (571) 272-3700
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Form PCT/ISA/220 (January 2004)

(See notes on accompanying sheet)

DOCKETED

Date *11/11/06*

PATENT COOPERATION TREATY

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference	FOR FURTHER ACTION <small>see Form PCT/ISA/220 as well as, where applicable, item 5 below.</small>	
International application No. PCT/US06/02390	International filing date (day/month/year) 23 January 2006 (23.01.2006)	(Earliest) Priority Date (day/month/year) 21 January 2005 (21.01.2005)
Applicant MAX OUT GOLF, LLC		

This international search report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This international search report consists of a total of 4 sheets.



It is also accompanied by a copy of each prior art document cited in this report.

1. Basis of the Report

a. With regard to the language, the international search was carried out on the basis of:



the international application in the language in which it was filed.



a translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b))

b. ☐

With regard to any nucleotide and/or amino acid sequence disclosed in the international application, see Box No. I.

2. ☐ Certain claims were found unsearchable (See Box No. II)

3. ☐ Unity of invention is lacking (See Box No. III)

4. With regard to the title,



the text is approved as submitted by the applicant.



the text has been established by this Authority to read as follows:

5. With regard to the abstract,



the text is approved as submitted by the applicant.



the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. With regard to the drawings,

a. the figure of the drawings to be published with the abstract is Figure No. 1



as suggested by the applicant.



as selected by this Authority, because the applicant failed to suggest a figure.



as selected by this Authority, because this figure better characterizes the invention.

b. ☐

none of the figures is to be published with the abstract.

INTERNATIONAL SEARCH REPORT

International application No.

PCT/US06/02390

Box IV TEXT OF THE ABSTRACT (Continuation of Item 5 of the first sheet)

The technical features mentioned in the abstract do not include a reference sign between parentheses (PCT Rule 8.1(d)).

NEW ABSTRACT

A golf equipment fitting system (400) that uses advanced technology to not only objectively identify the optimum equipment for the golfer, but to also identify and help correct swing flaws so that the golfer can achieve optimum performance on the golf course. Thus, in one embodiment, golf fitting includes collecting data related to the golfer's swing and determining if the golfer's swing technique should be modified based at least in part on the collected swing data. When it is determined that the golfer's swing technique should be modified, then providing swing instructions to the golfer. When, however, it is determined that the golfer's swing technique is fine, then collecting data related to how the golfer's swing launches a golf ball. Finally, golf equipment, e.g., golf clubs, can be specified based on the collected swing data and launch data.

INTERNATIONAL SEARCH REPORT

International application No.

PCT/US06/02390

A. CLASSIFICATION OF SUBJECT MATTER

IPC: A63B 53/00 (2006.01)

USPC: 473/409

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

U.S.: 473/409

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)

EAST: spin, putters, determine, select

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
Y	US 6,488,594 B1 (CARD et al) 03 December 2002 (03.12.2002), table I and II, column 8, lines 47-67.	1-26
Y	US 5,244,210 A (AU) 14 September 1993 (14.09.1993), column 2, lines 18-18.	1-26
Y	US 5,779,556 A (CERVANTES et al) 14 July 1998 (14.07.1998), column 2, lines 5-21.	1-26
Y	US 5,257,807 A (BAUMANN et al) 02 November 1993 (02.11.1993), column 5, lines 48-67.	4 and 18-26
Y	US 5,078,398 A (REED et al) 07 January 1992 (07.01.1992), column 1, lines 33-55.	5
Y	US 6,595,128 B2 (PARKS) 22 July 2003 (22.07.2003), column 3, lines 35-45.	6 and 11
Y	US 6,431,990 B1 (MANWARING) 13 August 2002 (13.08.2002), figure 15A, reference numbers 108a, 108b, column 6, lines 15-30.	6, 10 and 12

☒ Further documents are listed in the continuation of Box C.☐ See patent family annex.

* Special categories of cited documents:	"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
"A" document defining the general state of the art which is not considered to be of particular relevance	"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
"E" earlier application or patent published on or after the international filing date	"Y" documents of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art
"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)	"Z" document member of the same patent family
"O" document referring to an oral disclosure, use, exhibition or other means	
"P" document published prior to the international filing date but later than the priority date claimed	

Date of the actual completion of the international search

07 May 2006 (07.05.2006)

Date of mailing of the international search report

02 JUN 2006

Name and mailing address of the ISA/US

Mail Stop PCT, Attn: ISA/US

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

Facsimile No. (571) 273-3201

Authorized officer

Stephen L. Blau

Telephone No. (571) 272-3700

INTERNATIONAL SEARCH REPORT

International application No.
PCT/US06/02390

C. (Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
Y	US 4,094,072 A (ERB) 13 June 1978 (13.06.1978), column 1, lines 57-68.	8

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:
NOEL C. GILLESPIE
BAKER & MCKENZIE LLP
2001 ROSS AVENUE, SUITE 2300
DALLAS, TX 75201

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Applicant's or agent's file reference 67175523.001115		Date of mailing (day/month/year) 02 JUN 2006
FOR FURTHER ACTION See paragraph 2 below		
International application No. PCT/US06/02390	International filing date (day/month/year) 23 January 2006 (23.01.2006)	Priority date (day/month/year) 21 January 2005 (21.01.2005)
International Patent Classification (IPC) or both national classification and IPC IPC: A63B 53/00 (2006.01) USPC: 473/409		
Applicant MAX OUT GOLF, LLC		

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.
For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (571) 273-3201	Date of completion of this opinion 07 May 2006 (07.05.2006)	Authorized officer <i>[Signature]</i> Stephen L. Blair Telephone No. (571) 272-3700
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Form PCT/ISA/237 (cover sheet) (April 2005)

DOCKETED
Nth Date **06/06/06**
By **Responsible Person**
Action **11-21-06**

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/US06/02390

Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)

Claims 1-26 YES

Claims NONE NO

Inventive step (IS)

Claims NONE YES

Claims 1-26 NO

Industrial applicability (IA)

Claims 1-26 YES

Claims NONE NO

2. Citations and explanations:

Please See Continuation Sheet

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US06/02390

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

The drawings are objected to under PCT Rule 66.2(a)(iii) as containing the following defect(s) in the form or content thereof: Figures 6-7 and 12-13 are not readable. It is not sure where the reference lines are being directed to.

Claim 1 is objected to under PCT Rule 66.2(a)(iii) as containing the following defect(s) in the form or contents thereof: In line 11 the word "hell" appears to be a misspelling of the word "heel".

Claims 10-12 are objected to under PCT Rule 66.2(a)(iii) as containing the following defect(s) in the form or contents thereof: There is not proper antecedent basis for the term "stripes" in these claims. The claim they depend on uses the word "lines".

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/US06/02390

Supplemental Box
In case the space in any of the preceding boxes is not sufficient.

V. 2. Citations and Explanations:

Claims 1-3, 7, 9, and 13-17 lack an inventive step under PCT Article 33(3) as being obvious over Card in view of Carvantes and Au. Card discloses a method of uniformly testing a plurality of putters to determine how well each putter rolls a ball, striking with the heel, striking with the toe, striking with the center (Table I, II), swing mechanism (Col. 8, Lns. 47-50), distance control (Tables I, II), artificial green (Col. 8, Lns. 65-67), and rating and selecting a putter based on a rating in the form of deviation (Tables I and II, Col. 10, Lns. 1-33).

Card lacks determining whether a golfer strikes a ball at a heel, center or toe and selecting a putter that best suits a golfer based on the uniform testing.

Carvantes discloses a method of determining where a golfer strikes a ball and adjusting a golfer's swing or stance to correctly hit a ball (Col. 2, Lns. 13-16). Au discloses a method of providing a putter to a golfer where the characteristics including sweet spot match the personal (Col. 2, Lns. 11-18) characteristics of an individual (Col. 1, Lns. 8-22). In view of the patent of Carvantes it would have been obvious to modify the method of testing putters of Card to have a step of determining whether a golfer strikes a ball at a heel, center or toe in order to compare how a golfer uses a club to the strengths of clubs available to be used for that golfer. In view of the patent of Au it would have been obvious to modify the method of testing putters of Card to have a step of selecting a putter that best suits a golfer based on the uniform testing in order to benefit the individual characteristics of a golfer.

Claims 4, and 18-26 lack an inventive step under PCT Article 33(3) as being obvious over the prior art as applied in the immediately preceding paragraph and further in view of Baumann.

Card lacks a method of fitting a golfer a putter having steps of testing each putter left-to-right, right-to-left and straight putts, putters are rated to how well they roll a ball when striking a center, heel, and toe of a putter for a straight putt, left-to-right, and right-to-left. Baumann discloses how different golfers benefit from different putters for different putts as right-to-left breaking, and left to right breaking (Col. 5, Ln. 39 through Col. 6, Ln. 6). In view of the reference of Baumann it would have been obvious to modify the method of fitting a golfer with a putter of Card to have steps of testing each putter left-to-right, right-to-left and straight putts and putters are rated to how well they roll a ball when striking a center, heel, and toe of a putter for a straight putt, left-to-right, and right-to-left in order to further test a putter and give a golfer more information on the strengths and disadvantages of a putter prior to selecting a putter.

Claim 5 lacks an inventive step under PCT Article 33(3) as being obvious over the prior art as applied in the immediately preceding paragraph and further in view of Reed.

Card lacks a method of fitting a golfer a putter having a step of determining how a putter rolls a ball by how many putts are made. Reed discloses that a direction is important in putting (Col. 1, Lns. 49-50). In view of the patent of Reed it would have been obvious to

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/US06/02390

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

modify the method of fitting a golfer a putter of Card to have a step of determining how a putter rolls a ball by how many putts are made in order to evaluate a putter not only by distance but also by direction.

Claims 6 and 11 lack an inventive step under PCT Article 33(3) as being obvious over the prior art as applied in the immediately preceding paragraph and further in view of Parks.

Card lacks a method of fitting a golfer a putter having step of evaluating how well each putter rolls of ball determined by at least in part using lines drawn on a golf ball and stripes used to determine the degree of wobble produced by a putter. Parks discloses a method of fitting a golfer a putter having step of evaluating how well a ball was struck determined by at least in part using lines drawn on a golf ball and the degree of wobble (Col. 3, Lns. 40-45). In view of the patent of Parks it would have been obvious to modify the method of fitting a golfer a putter of Card to have a step of evaluating how well each putter rolls of ball determined by at least in part using lines drawn on a golf ball and stripes used to determine the degree of wobble produced by a putter in order to more clearly see the roll of a ball and in order to pick a putter which causes the least amount of wobble.

Claims 6, 10 and 12 lack an inventive step under PCT Article 33(3) as being obvious over the prior art as applied in the immediately preceding paragraph and further in view of Manwaring.

Card lacks a method of fitting a golfer a putter having step of evaluating how well each putter rolls of ball determined by at least in part using lines drawn on a golf ball, stripes used to determine the side spin and pure end-over-end roll produced by a putter. Manwaring discloses a method of fitting a golfer a putter having step of evaluating how well a ball was struck determined by at least in part using lines drawn on a golf ball (Fig. 15A, Ref. Nos. 108a, 108b) and the side spin and pure end-over-end roll produced by a putter (Col. 6, Lns. 15-28). In view of the patent of Manwaring it would have been obvious to modify the method of fitting a golfer a putter of Card to have a step of evaluating how well each putter rolls of ball determined by at least in part using lines drawn on a golf ball and stripes used to determine the side spin and pure end-over-end roll produced by a putter in order to more clearly see the roll of a ball and in order to pick a putter which causes the least amount of side spin or the greatest pure end-over-end roll produced by a putter.

Claim 8 lacks an inventive step under PCT Article 33(3) as being obvious over the prior art as applied in the immediately preceding paragraph and further in view of Erb.

Card lacks a method of fitting a golfer a putter having step of determining whether a selected putter improves a golfer's putting. Erb discloses making an adjustment to a club and testing the club to determine if the adjustment is adequate (Col. 1, Lns. 57-67, Col. 1, Lns. 5-10). In view of the patent of Erb it would have been obvious to modify the method of fitting a golfer with a putter of Card to have a step of determining whether a selected putter improves a golfer's putting in order to ensure the putter selected with the best rating from machine testing is adequate for player when the player uses the club.

Claims 1-26 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.

NOTES TO FORM PCT/ISA/220 (continued)

The letter must indicate the differences between the claims as filed and the claims as amended. It must, in particular, indicate, in connection with each claim appearing in the international application (it being understood that identical indications concerning several claims may be grouped), whether:

- (i) the claim is unchanged;
- (ii) the claim is cancelled;
- (iii) the claim is new;
- (iv) the claim replaces one or more claims as filed;
- (v) the claim is the result of the division of a claim as filed.

The following examples illustrate the manner in which amendments must be explained in the accompanying letter:

1. [Where originally there were 48 claims and after amendment of some claims there are 51]:
"Claims 1 to 29, 31, 32, 34, 35, 37 to 48 replaced by amended claims bearing the same numbers; claims 30, 33 and 36 unchanged; new claims 49 to 51 added."
2. [Where originally there were 15 claims and after amendment of all claims there are 11]:
"Claims 1 to 15 replaced by amended claims 1 to 11."
3. [Where originally there were 14 claims and the amendments consist in cancelling some claims and in adding new claims]:
"Claims 1 to 6 and 14 unchanged; claims 7 to 13 cancelled; new claims 15, 16 and 17 added." or
"Claims 7 to 13 cancelled; new claims 15, 16 and 17 added; all other claims unchanged."
4. [Where various kinds of amendments are made]:
"Claims 1-10 unchanged; claims 11 to 13, 18 and 19 cancelled; claims 14, 15 and 16 replaced by amended claim 14; claim 17 subdivided into amended claims 15, 16 and 17; new claims 20 and 21 added."

"Statement under Article 19(1)" (Rule 46.4)

The amendments may be accompanied by a statement explaining the amendments and indicating any impact that such amendments might have on the description and the drawings (which cannot be amended under Article 19(1)). The statement will be published with the international application and the amended claims.

It must be in the language in which the international application is to be published.

It must be brief, not exceeding 500 words if in English or if translated into English.

It should not be confused with and does not replace the letter indicating the differences between the claims as filed and as amended. It must be filed on a separate sheet and must be identified as such by a heading, preferably by using the words "Statement under Article 19(1)."

It may not contain any disparaging comments on the international search report or the relevance of citations contained in that report. Reference to citations, relevant to a given claim, contained in the international search report may be made only in connection with an amendment of that claim.

Consequence if a demand for international preliminary examination has already been filed

If, at the time of filing any amendments and any accompanying statement, under Article 19, a demand for international preliminary examination has already been submitted, the applicant must preferably, at the time of filing the amendments (and any statement) with the International Bureau, also file with the International Preliminary Examining Authority a copy of such amendments (and of any statement) and, where required, a translation of such amendments for the procedure before that Authority (see Rules 55.3(a) and 62.2, first sentence). For further information, see the Notes to the demand form (PCT/IP/EA/401).

If a demand for international preliminary examination is made, the written opinion of the International Searching Authority will, except in certain cases where the International Preliminary Examining Authority did not act as International Searching Authority and where it has notified the International Preliminary Examining Authority, be considered to be a written opinion of the International Preliminary Examining Authority. If a demand is made, the applicant may submit to the International Preliminary Examining Authority a reply to the written opinion together, where appropriate, with amendments before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later (Rule 43bis.1(c)).

Consequence with regard to translation of the international application for entry into the national phase

The applicant's attention is drawn to the fact that, upon entry into the national phase, a translation of the claims as amended under Article 19 may have to be furnished to the designated/elected Offices, instead of, or in addition to, the translation of the claims as filed.

For further details on the requirements of each designated/elected Office, see the *PCT Applicant's Guide*, Volume II.